

Ce 01/26/76

**TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT**  
(Under 37 CFR 1.97(b) or 1.97(c))

#4 Docket No.  
13028

In Re Application Of: **Craig Myers, et al.**

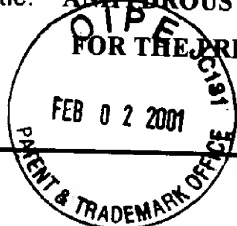
Serial No.  
09/666,369

Filing Date  
September 20, 2000

Examiner  
Unassigned

Group Art Unit  
1761

Title: **ANHYDROUS LACTITOL CRYSTALS, A PRODUCT CONTAINING THE SAME AND THE PROCESS FOR THE PREPARATION THEREOF**



Address to:  
Assistant Commissioner for Patents  
Washington, D.C. 20231

**37 CFR 1.97(b)**

1. ☒ The Information Disclosure Statement submitted herewith is being filed within three months of the filing of a national application; within three months of the date of entry of the national stage as set forth in 37 CFR 1.491 in an international application; or before the mailing date of a first Office Action on the merits, whichever event occurs last.

**37 CFR 1.97(c)**

2. ☐ The Information Disclosure Statement submitted herewith is being filed after three months of the filing of a national application, or the date of entry of the national stage as set forth in 37 CFR 1.491 in an international application; or after the mailing date of a first Office Action on the merits, whichever occurred last but before the mailing date of either:

1. a Final Action under 37 CFR 1.113, or
2. a Notice of Allowance under 37 CFR 1.311,

whichever occurs first.

Also submitted herewith is:

- ☐ a certification as specified in 37 CFR 1.97(e);

**OR**

- ☐ the fee set forth in 37 CFR 1.17(p) for submission of an Information Disclosure Statement under 37 CFR 1.97(c).

RECEIVED  
TECHNOLOGY CENTER 1706

**TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT**  
(Under 37 CFR 1.97(b) or 1.97(c))

Docket No.  
13028

In Re Application Of: **Craig Myers, et al.**

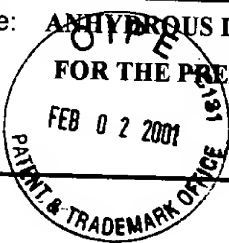
Serial No.  
09/666,369

Filing Date  
September 20, 2000

Examiner  
Unassigned

Group Art Unit  
1761

Title: **ANHYDROUS LACTITOL CRYSTALS, A PRODUCT CONTAINING THE SAME AND THE PROCESS FOR THE PREPARATION THEREOF**



**Payment of Fee**

(Only complete if Applicant elects to pay the fee set forth in 37 CFR 1.17(p))

- ☐ A check in the amount of \_\_\_\_\_ is attached.
- ☒ The Assistant Commissioner is hereby authorized to charge and credit Deposit Account No. 19-1013/SSMP as described below. A duplicate copy of this sheet is enclosed.
- ☐ Charge the amount of \_\_\_\_\_
- ☒ Credit any overpayment.
- ☒ Charge any additional fee required.

**Certificate of Transmission by Facsimile\***

I certify that this document and authorization to charge deposit account is being facsimile transmitted to the United States Patent and Trademark Office (Fax No. \_\_\_\_\_) on \_\_\_\_\_ (Date)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or Printed Name of Person Signing Certificate

**Certificate of Mailing by First Class Mail**

I certify that this document and fee is being deposited on 1/30/01 with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

\_\_\_\_\_  
Signature of Person Mailing Correspondence

**Mishelle Mustafa**  
Typed or Printed Name of Person Mailing Correspondence

\*This certificate may only be used if paying by deposit account.

Signature

Dated: January 30, 2001

**Mark J. Cohen**  
Registration No. : 32,211

**Scully, Scott, Murphy & Presser**  
400 Garden City Plaza  
Garden City, NY 11530  
(516) 742-4343

CC:



**PATENTS**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Applicant(s):** Craig Myers, et al.

**Examiner:** Unassigned

**Serial No:** 09/666,369

**Art Unit:** 1761

**Filed:** September 20, 2000

**Docket:** 13028

**For:** ANHYDROUS LACTITOL CRYSTALS, A PRODUCT CONTAINING THE SAME AND THE PROCESS FOR THE PREPARATION THEREOF **Dated:** January 30, 2001

Assistant Commissioner for Patents  
Washington, D.C. 20231

**INFORMATION DISCLOSURE STATEMENT**

Sir:

In accordance with the provisions of 37 C.F.R. §§1.56, 1.97 and 1.98, applicants are making of record art for consideration by the United States Patent and Trademark Office. Some of this art was encountered in the International Patent Application corresponding to the above-identified application; others were mentioned in the above-identified specification. The art is specifically listed on the accompanying PTO-1449 form and hereinbelow:

1. Wolfrom, M.L., et al., "Crystalline Lactositol", J. Am. Chem. Soc., Vol. 60: 571-573 (1938);

**CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on January 30, 2001.

**Dated:** January 30, 2001

  
Michelle Mustafa

2. Velthuijsen, J.A., "Food Additives Derived from Lactose: Lactitol and Lactitol Palmitate," J. Agric. Food Chem., Vol. 27: 680 (1979);
3. Kivikoski, J., et al., "Crystal structure of lactitol (4-O- $\beta$ -D-galactopyranosyl-D-glucitol) dihydrate", Carbohydrate Research, Vol. 233: 53-59 (1992);
4. Halttunen, H., et al., "Influence of Drying to the Structure of Lactitol Monohydrate", Journal of Thermal Analysis, Vol. 49: 809-816 (1997);
5. Yajima, K., et al., "Transformation of Lactitol Crystals and Dehydration with Grinding", Chem. Pharm. Bull., Vol. 45(10): 1677-1682 (1997);
6. International Patent Publication WO 92/16542,  
dated October 1, 1992;
7. European Patent Application 0 231 643 A1,  
dated August 12, 1987;
8. European Patent Application 0 039 981 B1,  
dated November 18, 1981;
9. European Patent Application 0 381 483 A1,  
dated August 8, 1990;
10. European Patent Application 0 456 636 B1,  
dated November 21, 1991;
11. Japanese Laid-Open No. 19674/90,  
dated August 3, 1990;
12. International Patent Publication WO 98/11878,  
dated March 26, 1998;
13. Japanese Laid-Open No. Hei 2-255694,  
dated October 6, 1990;
14. International Patent Application WO 97/39739,  
dated October 30, 1997 with English language  
equivalent, U.S. Patent No. 6,165,511;
15. European Patent Application 0 832 899 A1,  
dated April 1, 1998 with English language equivalent,  
U.S. Patent No. 5,989,352;

16. Finnish Patent Application 942267,  
dated November 18, 1994 with English language  
equivalent, U.S. Patent No. 5,478,593;
17. German Patent Application DE 37 32 141 A1,  
dated April 6, 1989 with English language abstract;
18. U.S. Patent No. 5,629,042,  
issued May 13, 1997;
19. U.S. Patent No. 5,726,303,  
issued March 10, 1998;
20. International Patent Application WO 90/06317,  
dated June 14, 1990;
21. International Patent Application WO 98/39350,  
dated September 11, 1998;
22. Danish Patent Application 133603,  
dated June 14, 1976.
23. Derwent Abstract of WO 97/39739
24. Abstract of EPO Application 832899
25. Abstract of FI 942267
26. Abstract of DE 3732141

Moreover, applicants are submitting a copy of the Search Report of the corresponding International Patent Application.

Many of the references are not in the English language; such as WO 97/39739, FI 942267, EPO 832,899, DE 3732141, and DK 133603. However, applicants are submitting an English language equivalent of WO 97/39739, i.e., U.S. Patent No. 6,165,511 and an English language equivalent of FI 942267, i.e., U.S. Patent No. 5,478,593 and an English language equivalent of EPO application 832 899, viz., U.S. Patent No. 5,989,352. With

respect to DE 3732141, applicants are submitting an abstract thereof in the English language which provides a concise explanation of the relevance thereof. In addition, with respect to DE 373,2141, the following comments concerning the concise explanation of relevance is provided by an individual designated in 37 C.F.R. §1.56 most knowledgeable about the contents thereof: This reference concerns a dry sorbitol product obtained by spray drying. It does not disclose anhydrous lactitol crystals.

All of these satisfy the concise explanation of relevance required by 37 C.F.R. §1.98(a)(3) with respect to the above-identified art written in a language other than English.

Another reference which is listed on the PTO-1449 form and is not in the English language is DK 133603.

A concise explanation of the relevance thereof, as it is presently understood by an individual designated in 37 C.F.R. §1.56(c) most knowledgeable about the contents of the reference, is as follows:

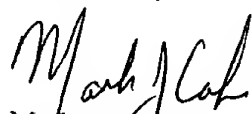
The reference concerns a device and a method for spray drying of carbohydrate. Lactitol is not mentioned.

Applicants respectfully request that these references be made of record in the above-identified application.

Consideration of this Information Disclosure Statement is respectfully requested since the art provided may be material to the examination of the application, as defined in 37 C.F.R. §1.56.

Inasmuch as this Information Disclosure Statement is being submitted prior to the issuance of a first Office Action on the merits, no fee or certification is required.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark J. Cohen". The signature is stylized with a large, looped "M" and a cursive "C".

Mark J. Cohen  
Registration No.: 32, 211

Scully, Scott, Murphy & Presser  
400 Garden City Plaza  
Garden City, New York 11530

MJC:lf